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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/694,515

10/27/2003

Daniel Howard Lann

Lann01

2676

7590

01/10/2006

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EXAMINER

BALSIS, SHAY L

ART UNIT

PAPER NUMBER

1744

DATE MAILED: 01/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

16

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/694,515	LANN, DANIEL HOWARD	
	<b>Examiner</b>	<b>Art Unit</b>	
	Shay L. Balsis	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 November 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10 and 12-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16 and 17 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 12-15 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Losenno (USPN 4159773).

Losenno teaches a clip device comprising a plurality of substantially cylindrical clip members (30) having a longitudinal opening. The clip members have a hollow interior. There is a rigid main body (32), which the clip members are attached to. The clip members are securely attached to the main body in a parallel manner and are spaced apart from each other in a transverse direction (claim 1). There is an elongated handle (36) attached to the main body (claims 2). The handle is considered to be detachable since the parts are not integral. Therefore, the handle could be broke off or removed by any means such as force (claim 3). The main body is made of a metal plate (col. 2, lines 37-46) (claim 4). The clip members are welded to the main body (col. 2, lines 37-46) (claim 7).

While the reference does not teach using these clips to clean grill rods, the applicant never positively claims the grill rods. Additionally, the clip members used in Losenno could be used to large grill rods. The use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

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Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Bartleman (USPN 2615577).

Bartleman teaches a clip device comprising a plurality of substantially cylindrical clip members (A) having a longitudinal opening (claim 1). The clip members have a hollow interior. There is a rigid main body (5), which the clip members are attached to (claim 1). The clip members are securely attached to the main body in a parallel manner and are spaced apart from each other in a transverse direction (claim 1). The clip members are adjustably secured to the main body (figure 3) (claim 8).

While the reference does not teach using these clips to clean grill rods, the applicant never positively claims the grill rods. Additionally, the clip members used in Bartleman could be used to large grill rods. The use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 4, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Adams (USPN 4209098) in view of Bisping et al. (USPN 4119285).

Adams teaches a clip device comprising a plurality of substantially cylindrical clip members (42) having a longitudinal opening (claims 1 and 10). The clip members have a hollow interior (claims 1 and 10). There is a rigid main body (100), which the clip members are attached to (claims 1 and 10). The clip members are securely attached to the main body in a parallel manner and are spaced apart from each other

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in a transverse direction (claim 1). The main body is made of a metal plate (col. 3, lines 12-15) (claim 4). The clip members are adjustably secured to the main body (figure 1) (claim 8). There is a slot (40) located in the main body for receiving the clip members (claim 10). Additionally, there are set screws (62) used to secure the clip members to the main body (claim 10).

Adams teaches all the essential elements of the claimed invention however fails to teach that the clip members have thin and elastically deflectable metal walls. Bisping teaches a clip member made from a thin and elastically deflectable metal wall. It would have been obvious to modify Adams clip members with the clip members as taught by Bisping so as to allow for easy snap-on clipping with a more favorable distribution of the bearing or gripping pressure (col. 2, lines 1-15). Additionally, using clips as taught by Bisping allows various sized rods to fit within the clip. The clip of Adams only allows for one size rod.

Claims 10, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Losenno (USPN 4159773) in view of Kendrena (USPN 5687856).

Losenno teaches all the essential elements of the claimed invention as stated above however fails to teach attaching the clips to the main body with screws. Kendrena teaches using screws to attach hooks and clip members to a main body. It would have been obvious to modify Losenno's permanent clips with adjustable clips as taught by Kendrena so that the spacing between the clips can be altered depending on the use of the clip members (abstract). Therefore, if the clip members of Losenno were attached by screws instead of spot-welding, the clips could be moved or adjusted to facilitate more uses.

Claims 5-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bartleman or Losenno or Adams in view of Bisping.

Bartleman or Losenno or Adams in view of Bisping teach all the essential elements of the claimed invention however fail to teach what thickness the sheet metal material of the clip member is. It would have been obvious to one of ordinary skill in the art to use sheet metal that is less than 1/8 or 1/16 of an inch thick, since differences in thickness will not support the patentability of subject matter

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encompassed by the prior art unless there is evidence indicating such thickness is critical. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losenno in view of Kendrena or Adams in view of Bisping.

Losenno in view of Kendrena or Adams in view of Bisping teach all the essential elements of the claimed invention however fail to teach what thickness the sheet metal material of the clip member is. It would have been obvious to one of ordinary skill in the art to use sheet metal that is less than 1/8 of an inch thick, since differences thickness will not support the patentability of subject matter encompassed by the prior art unless there is evidence indicating such thickness is critical. In *Gardner v. TEC Systems, Inc.*, 725 F.2d 1338, 220 USPQ 777 (Fed. Cir. 1984), cert. denied, 469 U.S. 830, 225 USPQ 232 (1984), the Federal Circuit held that, where the only difference between the prior art and the claims was a recitation of relative dimensions of the claimed device and a device having the claimed relative dimensions would not perform differently than the prior art device, the claimed device was not patentably distinct from the prior art device.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Losenno in view of Kendrena or Adams in view of Bisping as applied to claim 13 above.

Losenno in view of Kendrena or Adams in view of Bisping teaches all the essential elements of the claimed invention however fails to teach that the clip members are spot welded to the screws. Losenno in view of Kendrena or Adams in view of Bisping teaches that the clips and screws are separate elements. It would have been obvious at the time the invention was made to spot weld the clips to the

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screws since making element integral is a modification that has been considered to be within the level of ordinary skill in the art to follow. *In re Larson*. 144 USPQ 347, 349.

***Allowable Subject Matter***

Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 16-17 are allowed.

The following is a statement of reasons for the indication of allowable subject matter:

Claim 9 includes the limitation of a spear at one end and a protruded truncated pyramid portion on the wall member at the position where the clip member is attached to the main body. None of the references teach these limitations nor would it have been obvious to modify the clips of the prior art to have a spear at one end since there is no teaching for doing so.

Claim 16 includes the limitations for cleaning a grill rack using substantially cylindrical clips. Pressure is applied to the clips to force the clip members against the metal rods of the grill rack, which causes the metal rods to insert into the cylindrical interior of the clip members. None of grill cleaners teach using a plurality of substantially cylindrical clips, which with force fit over the grill rods.

***Response to Arguments***

Applicant's arguments with respect to claims 1-10, 12-17 have been considered but are moot in view of the new ground(s) of rejection.

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shay L. Balsis whose telephone number is 571-272-1268. The examiner can normally be reached on 7:30-5:00 M-Th, alternating F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on 571-272-1226. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Slb  
12/30/05



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